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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,716	03/10/2006	John Hatrick-Smith	550639.00006	2911
26710 7590 12/02/2009 QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497				
EXAMINER LE, HUYEN D				
ART UNIT 3751		PAPER NUMBER		
NOTIFICATION DATE 12/02/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com

Office Action Summary

Application No.

10/539,716

Applicant(s)

HATRICK-SMITH ET AL.

Examiner

Huyen Le

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 and 17-27 is/are rejected.
7) ☒ Claim(s) 12-16 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date 06/20/2005
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the front face of the fitting includes one or more shallow recesses into which a users finger or fingers may fit to facilitate rotation of said ring to adjust water or air flow from the fitting” must be shown or the feature(s) canceled from claims 4, 9. “The fitting includes a central eyeball nozzle which is movable to adjust the direction of water flow from the fitting” must be shown or the feature(s) canceled from claims 5, 10 .No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 6-7, 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Pinciario (5,850,640).

Pinciario discloses a spa bath including at least one spa jet fitting 10 having a front face 30 exposed to the interior of the bath cavity which does not protrude beyond the surface of the bath wall around the spa jet fitting (Fig. 4).

Regarding claim 2, a major portion of the front face of the fitting is substantially flush with the surrounding surface of the bath wall.

Regarding claim 3, the fitting is a water jet outlet fitting and wherein the front face 30 of the fitting comprises a ring which is rotatable to adjust water or air flow from the fitting.

Regarding claims 6, 11, the fitting 10 comprises a front part 20 which is exposed to the interior of the bath and which includes an edge portion about the periphery of the front part which is tapered (at 34) with reducing diameter toward a rear part of the fitting, which tapered peripheral edge portion 34 of the front part would seat in the recess (shown in Fig. 4) in the side wall of the bath and centers the spa fitting.

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Regarding claim 7, the front part includes a front ring which provides the wide diameter front face of the fitting.

4. Claims 17-27 are rejected under 35 U.S.C. 102(b) as being anticipated by i Gravatt (5,353,447)

Gravatt discloses a spa bath fitting including: a front part 4 including a wide diameter front face which is exposed to the interior of the bath when the fitting is mounted in the side wall or base of a bath, a rear part 2 which is positioned on the rear side of the bath wall or base when the fitting is mounted in a bath and with which the front part is threadedly connected, and a back nut 16 mounted on the rear part for fixing the fitting in the bath wall or base.

Regarding claim 18, the forward part includes a tail for passing through an aperture in the bath wall or base and which has a threaded end which threadedly-connects with the rear part of the fitting and wherein the back nut threadedly mounts on the exterior of rear part of the fitting so that the back nut can be screwed up against the rear side of a bath wall or base to lock the fitting in place in the bath wall or base.

Regarding claim 19 the tail of the forward part of the fitting is externally threaded and the rear part comprises a complementary threaded bore into which the threaded shaft of the forward part connects.

Regarding claim 20, the front part includes a separate front ring 36 which provides the wide diameter front face of the fitting.

Regarding claim 21, the front snap-fit connects to another section of the forward part of the spa to another section of the forward part of the fitting.

Regarding claim 22, the front ring screw threadedly connects to another section of the forward part of the fitting.

Regarding claim 23, a forward face of the back nut is tapered to assist in self-centering the fitting during the tightening of the back nut against the rear Of the bath wall or base.

Regarding claim 24, a peripheral edge portion of the forward part is tapered with reducing diameter toward the rear part of the fitting to assist in centering the fitting in a recess in the wall or base of a bath.

Regarding claim 25, the fitting is a water jet outlet fitting and wherein the front face of the fitting comprises a ring 36 which is rotatable to adjust the water or air flow from the fitting.

Regarding claim 26, the front face of the fitting includes one or more shallow recesses 36 into which a users finger or fingers may fit to facilitate rotation of the ring to adjust water or air flow from the fitting (see Fig. 5).

Regarding claim 27, the fitting is a water jet outlet fitting and includes a central eyeball nozzle which is movable to adjust the direction of water flow from the fitting.

5. Claims 17-19 and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Gargle (5,045,978)

Gargle discloses a spa bath fitting including: a front part 25 including a wide diameter front face which is exposed to the interior of the bath when the fitting is mounted in the side wall or base of a bath, a rear part 15 which is positioned on the rear side of the bath wall or base when the fitting is mounted in a bath and with which the

front part is threadedly connected, and a back nut 31 mounted on the rear part for fixing the fitting in the bath wall or base.

Regarding claim 18, the forward part includes a tail for passing through an aperture in the bath wall or base and which has a threaded end which threadedly-connects with the rear part of the fitting and wherein the back nut threadedly mounts on the exterior of rear part of the fitting so that the back nut can be screwed up against the rear side of a bath wall or base to lock the fitting in place in the bath wall or base.

Regarding claim 19 the tail of the forward part of the fitting is externally threaded and the rear part comprises a complementary threaded bore into which the threaded shaft of the forward part connects.

Regarding claim 23, a forward face of the back nut is tapered to assist in self-centering the fitting during the tightening of the back nut against the rear Of the bath wall or base.

Regarding claim 24, a peripheral edge portion of the forward part is tapered with reducing diameter toward the rear part of the fitting to assist in centering the fitting in a recess in the wall or base of a bath.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinciario in view of Cohen (4,408,721).

Although Pinciario does not disclose a central eyeball nozzle, attention is directed to Cohen which teaches an eyeball nozzle assembly for adjusting the direction of water flow. Therefore, it would have been obvious to one of skill in the art at the time the invention was made to employ an eyeball nozzle in the Pinciario spa jet fitting in view of the teaching of Cohen for adjusting the direction of water flow in a spa.

8. Claims 3, 4, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinciario in view of Loizeaux et al. (GB 2319195).

Although Pinciario does not disclose a rotatable ring having recesses for a user's fingers, attention is directed to the Loizeaux et al. reference which teaches a spa jet fitting having a rotatable ring 21 having recesses 90 for a users fingers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a rotatable ring having recesses on the Pinciario spa jet fitting in view of the teaching of Loizeaux et al. for a user to adjust water flow from the spa jet fitting as needed.

Allowable Subject Matter

9. Claims 12-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huyen Le whose telephone number is 571-272-4890. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Huyen Le/
Primary Examiner, Art Unit 3751